

REMARKS

This Amendment is responsive to the Final Office Action dated July 13, 2010. Applicant has amended claim 72 to correct a typographical error to provide proper antecedent basis. The amendment to claim 72 does not modify the scope of claim 72. Claims 47, 56-57, 66, 68 and 70-84 remain pending.

Claim Rejection Under 35 U.S.C. § 112

35 U.S.C. § 112, first paragraph

In the Office Action, the Examiner rejected claim 72 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. In particular, the Examiner alleged that the rejected claim contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. As a basis for the rejection, the Examiner alleged that “the specification is silent regarding the use of “thermoset epoxy resin” guard plate material. The specification merely discloses that the plate material may include epoxy resin and phenol-based resins.”¹

Applicant respectfully disagrees. Contrary to the Examiner’s rejection, the feature of a plurality of guard plates comprising thermoset epoxy resin is supported Applicant’s specification as required under 35 U.S.C. 112, first paragraph.

MPEP § 2163(I) states that “[t]o satisfy the written description requirement, a patent specification must described the claimed invention in sufficient detail that one skilled in the art can reasonably conclude that the inventor had possession of the claimed invention.” Per MPEP § 2163(I)(B), for newly added claim limitations, there is no *in haec verba* requirement, and newly added claim limitations may be supported in the specification through express, implicit, or inherent disclosure. As such, an applicant’s specification does not need the exact language of a new claim limitation to satisfy the written description requirement of 35 U.S.C. 112, first paragraph. Rather, support for a new claim limitation may be found in any one of the express, implicit, or inherent disclosure of the specification.

Consistent with the standards set forth in MPEP § 2163, support for the feature of guard plates comprising thermoset epoxy resin may be found throughout the Applicant’s specification.

¹ Final Office Action, Item 3.

For example, at paragraph [0039], Applicant's specification describes that "[p]late material includes resins such as epoxy resins, phenol-based resins, and other like substances. Such materials can require heat or ultraviolet curing." (Emphasis added). As another example, at paragraph [0050], Applicant's specification describes that "fabric assembly can be cured to solidify or harden plates and/or adhesive layer, such as by heat or ultraviolet curing." (Emphasis added). Additional support for the claimed feature may be found in one or more other portions of the Applicant's specification.

On this basis, for example, the Applicant's specification does in fact describe the feature of a guard plates comprising thermoset epoxy resin, at least to the extent that one of ordinary skill in the art would have reasonably concluded that the inventors had possession of the claimed feature at the time Applicant's application was filed.

For at least these reasons, Applicant requests withdrawal of the rejection.

35 U.S.C. § 112, first paragraph

In the Office Action, the Examiner also rejected claim 72 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner asserted that there was insufficient antecedent basis for "the thermoset polymeric resin" in claim 72. Applicant has amended claim 72 to include proper antecedent basis, and requests withdrawal of the rejection.

Claim Rejection Under 35 U.S.C. § 103

In the Final Office Action, the Examiner rejected claims 47, 56, 66, 68, 71, 76-79, 82, and 83 under 35 U.S.C. 103(a) as allegedly being unpatentable over Post (US 6,044,493) in view of Kang (US 6,044,494).

In the Final Office Action, the Examiner also rejected claims 75 and 81 under 35 U.S.C. 103(a) as allegedly being unpatentable over Post (US 6,044,493) in view of Kang (US 6,044,494) as applied to claims 47, 56, 66, 68, 71, 76-79, 82, and 83 above, and further in view of Cordova (US 5,442,815).

In the Final Office Action, the Examiner also rejected claims 47, 56, 57, 66, 68, 70-74, 76-80, and 82-84 under 35 U.S.C. 103(a) as allegedly being unpatentable over Post (US 6,044,493) in view of Kang (US 6,044,494) in view of Christie (WO 98/30625).

Applicant respectfully traverses the rejection. The applied references fail to disclose or suggest the inventions defined by Applicant's claims, and there would have been no apparent reason for further modification to include such features.

Independent Claim 47

With reference to independent claim 47, for example, the applied references fail to make obvious the feature of a plurality of non-overlapping guard plates separated by gaps on a surface of the woven fabric substrate and comprising cured polymer resin.

In the Final Office Action, the Examiner acknowledged that Post fails to disclose the feature of guard plates separated by gaps on the surface of a substrate.² However, the Examiner asserted that "Kang discloses that it is known in the glove art to apply silicon as currently claimed, rather than a continuous film, to prevent the glove from losing the original feel, motion, and tactile response."³ On this basis, the Examiner concluded that "it would have been obvious to one having ordinary skill in the art at the time the invention was made to apply silicone guard plates as currently claimed, motivated by a desire to prevent the glove from losing the original feel, motion, and tactile response."⁴

Applicant respectfully disagrees with the Examiner's conclusion for at least the following reasons. One of ordinary skill in the art at the time of Applicant's invention would have had no apparent reason to modify the palm coating 30 described by Post in the manner proposed by the Final Office Action. MPEP 2143.01(V) states that "[i]f a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification."⁵

In the present matter, one of ordinary skill in the art at the time of the invention would have considered the modification proposed by the Examiner to render the palm coating 30 described by Post unsuitable for its intended purpose. Post describes that the palm coating 30 serves to provide additional protection from cuts, punctures, and abrasions.⁶ In one particular instance, Post indicates that the palm coating 30 increases the thickness of the palm surface of

² Final Office Action, page 3.

³ Final Office Action, page 3 (citations omitted).

⁴ Final Office Action, page 3.

⁵ MPEP 2143.01 (V), citing *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984)

⁶ Post, col. 2, lines 37-42.

the glove and protects the underlying substrate material.⁷ Additionally, in another instance, Post indicates that the palm coating provides a smooth surface along which sharp edges, such as knife edges and needle tips, may glide.⁸

In each of the two instances described above, one of ordinary skill in the art at the time of the invention would have considered the modification of Post to include the plurality of guard plates separated by gaps on the surface of the substrate in place of the continuous palm coating 30 to render the palm coating unsuitable for its intended purpose. Indeed, in the first instance, the modification of the glove described by Post to substitute a plurality of guard plates separated by gaps on the surface of the substrate for the continuous elastomeric coating described by Post would result in a configuration in which the palm coating 30 does not increase the thickness of the palm surface of the glove and protect the underlying substrate material. Instead, while the thickness of the palm surface may be increased in the portions covered by each guard plate, the thickness of the palm surface at the gaps between the guard plates would be no greater than that of the underlying substrate material. Additionally, while the portions of underlying substrate covered by the guard plates may be protected as directed by Post, the portions of the underlying substrate not covered by the guard plates (e.g., those portions corresponding to the gaps between the guards plates) would not be protected by the palm coating 30.

Similarly, with regard to the second instance described above, the modification of the glove described by Post to substitute a plurality of guard plates separated by gaps on the surface of the substrate for the continuous elastomeric coating 30 described by Post would result in a configuration in which the palm coating 30 does not provide a smooth surface. Instead, the discontinuous nature of the plurality of guard plates separated by gaps would appear to provide for a rough, broken surface over the palm of the glove rather than a smooth surface, especially when compared to that of the continuous elastomeric coating described by Post. As such, one of ordinary skill in the art at the time of the invention would have considered the proposed modification as failing to provide a smooth surface to allow sharp edges, such as knife edges and needle tips, to glide.

In each case above, the modification of the palm coating 30 proposed by the Examiner would render the palm coating unsuitable for the intended functions described by Post.

⁷ Post, col. 5, lines 44-46.

⁸ Post, col. 5, lines 50, 51.

Accordingly, one of ordinary skill in the art at the time of Applicant's invention would have had no apparent reason to modify the palm coating 30 described by Post in the manner proposed by the final Office Action. For at least these reasons, the Examiner has failed to establish a *prima facie* case for non-patentability of Applicant's claim 47 under 35 U.S.C. 103(a).

Independent Claims 79 and 82

The applied references fail to teach or suggest the features of an array of non-overlapping guard plates arranged in a pattern, the guard plates being separated by gaps and comprising cured epoxy resin, as recited by independent claim 79, and a plurality of non-overlapping guard plates comprising a cured polymer resin on the top surface of the fabric substrate, wherein the plurality of guard plates are separated by gaps on the top surface of the woven fabric substrate, as recited by independent claim 82.

In the Final Office Action, the Examiner rejected independent claims 79 and 82 on substantially the same basis as that of independent claim 47. For at least the reasons described above with regard to claim 47, there would have been no apparent reason to modify Post in view of Kang as proposed by the Examiner with regard to claims 79 and 82 since one of ordinary skill in the art at the time of the invention would have considered the proposed modification to render the palm coating 30 of Post unsuitable for the intended function as described by Post.

For at least these reasons, the applied references fail to teach or suggest the features of amended independent claims 79 and 82. Moreover, Christie fails to overcome the above identified deficiencies in Post and Kang. In light of such deficiencies, Applicant reserves further comment concerning the Christie, but neither admits nor acquiesces in the propriety of the Examiner's characterization of Christie or interpretation of the claims for purposes of the rejections under section 103(a).

Dependent Claims

Claims 56-57, 66, 68 and 70-78, 80, 81, 83, and 84 each depend either directly or indirectly from independent claims 47, 79, or 82. Accordingly, each of the dependent claims includes all of the limitations recited by the corresponding independent claim. For at least the deficiencies previously identified with respect to independent claims 47, 79, and 82, Post and Kang fail to disclose all features of the claims 56-57, 66, 68 and 70-78, 80, 81, 83, and 84.

Furthermore, the additional applied references fails to provide any teaching sufficient to overcome the identified deficiencies. In light of such deficiencies, Applicant reserves further comment concerning Christie and Cordova, but neither admits nor acquiesces in the propriety of the Examiner's characterization of the applied references or interpretation of the claims for purposes of the rejections under section 103.

Moreover, the Examiner has failed to demonstrate that Post describes the feature of guard plates comprising a heat resistant material, per claim 56. In the previous Office Action dated February 23, 2010, with regard to claims 56, the Examiner took official notice that silicone is a heat resistant material.⁹ In Applicant's response dated June 23, 2010, Applicant noted that the Office Action failed to provide any evidence that supports the assertion that silicone is a heat resistant material is notoriously well known in the art. Applicant noted that MPEP § 2144.03 directs that official notice unsupported by documentary evidence should only be taken where the facts asserted to be well known or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well known. In the submission dated June 23, 2010, Applicant asserted that the features of claim 56 are not capable of instant and unquestionable demonstration as being well known in the art. On this basis, Applicant respectfully requested that the Examiner provide an affidavit or declaration setting forth a specific factual statement and explanation to support the finding, or provide documentary evidence supporting the assertion that silicone is a heat resistant material. However, the Examiner has failed to provide the requested material to support the office notice asserted by the Examiner. Accordingly, the Examiner has failed establish that Post describes the features of claim 56.

For at least these reasons, the Examiner has failed to establish a *prima facie* case for non-patentability of Applicant's claims 47, 56, 57, 66, 68 and 70-84 under 35 U.S.C. 103(a). Withdrawal of this rejection is requested.

⁹ Office Action dated February 23, 2010, pages 5 and 8.

CONCLUSION

All claims in this application are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of all pending claims. Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

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